1 of the Fourteenth Amendment of the Constitution of the United States; and applied for mandamus to compel the issuing of the license without an examination. *Held:* that the writ should be denied. *State* v. *Currans* (1901), 111 Wis. 431, 87 N. W. Rep. 561, 56 L. R. A. 252.

With respect of the first objection, the court said that it was clear that the right to practice medicine, like the right to practice law, was not an incident of citizenship in such sense that relator was entitled to a license either under the clause (Sec. 2, Art. 4,) providing that the citizens of each state shall be entitled to the privileges and immunities of citizens in the several states, or under that clause in the Fourteenth Amendment forbidding the states to abridge the privileges and immunities of citizens of the United States. Neither did the statute deny to relator the equal protection of the laws. Numerous instances of legislation recognizing confidence in state institutions as a ground of classification are found. And they have repeatedly been held not to constitute denials of the equal protection of the laws. *Hewitt* v. *Charier*, 16 Pick. 353; *Bibber* v. *Simpson*, 59 Me. 181; *Brooks* v. *State*, 88 Ala. 122, 6 So. Rep. 902; *Wilkins* v. *State*, 113 Ind. 514, 16 N. E. Rep. 192.

CONSTITUTIONAL LAW — INSURANCE COMPANIES — EQUAL PROTECTION OF THE LAWS.—A Texas statute provided that a life or health insurance company, in case it should fail to pay a loss within the time stipulated in the policy, should be liable, in addition to the amount of said loss, for 12% damages, and reasonable attorney fees. There was no such provision as to other companies. *Held*, that the fact that, in many cases, the insurance money is essential as a means of living to those who were dependent upon the deceased, distinguishes life and health from other kinds of insurance; that, based upon this distinction, the statute made no arbitrary classification, and was not unconstitutional as denying the equal protection of the laws. *Fidelity Mutual Life Association* v. *Nettler*, (1902) 185 U. S. 308, 22 Sup. Ct. Rep. 662.

The distinction made by the majority, in the principal case, between life and other insurance companies, does not seem to be a very strong one. As Justices Harlan and Brown reason in the dissenting opinion, the same reasons would exist for prompt payment in cases of fire insurance, where often the house destroyed is the sole shelter of a family. And though, as the court agree, the states may impose conditions upon corporations, domestic and foreign, such conditions will not bind if they be inconsistent with the constitution of the United States. *W. W. Cargill Co.* v. *Minnesota* (1901), 180 U. S. 452, 21 Sup. Ct. Rep. 423. And, though the court says the distinction is obvious, it is difficult to satisfactorily reconcile the principal case with former holdings. *Gulf, etc. Ry. Co.* v. *Ellis* (1897), 165 U. S. 150, 41 L. ed. 666, 17 Sup. Ct. Rep. 255.

Corporations are persons within the Fourteenth Amendment. *Smyth* v. *Ames* (1898), 169 U. S. 466, 42 L. ed. 819, 18 Sup. Ct. Rep. 418; *Gulf, etc. Ry. Co.* v. *Ellis*, *supra*. The Fourteenth Amendment, however, was not designed to restrain classification by the states. *Magoun* v. *Illinois Trust & Savings Bank* (1898), 170 U. S. 283, 42 L. ed. 1037, 18 Sup. Ct. Rep. 594; *Atchison etc. Ry. Co.* v. *Matthews* (1898), 174 U. S. 96, 43 L. ed. 909, 19 Sup. Ct. Rep. 609. But such classification must proceed upon a difference which has a reasonable relation to the object sought to be accomplished, and must not be made arbitrarily or unreasonably. *Atchison, etc. Ry. Co.* v. *Matthews*, *supra; Gulf, etc. Ry. Co.* v. *Ellis*, *supra*. And if such classification is properly made, attorney fees, and as a result, additional damages, though in the nature of a penalty, may be allowed by the statute. *Atchison,*

etc., Ry. Co. v. *Matthews, supra; Gulf, etc. Ry. Co.* v. *Ellis, supra; Chicago, etc. Ry. Co.* v. *Moss* (1882), 60 Miss. 641.

CONSTITUTIONAL LAW — VESTED RIGHT OF DEFENSE — DEPRIVATION OF PROPERTY RIGHTS.—The plaintiff, a citizen of Indiana, employed by the defendant, an interstate company, was injured through the negligence of a fellow servant, in Illinois. By the laws of the latter state he could not recover, but an Indiana statute permitted a recovery for an injury caused by a fellow servant under such circumstances. A further statute of Indiana provided that where the injury was sustained in another state, it should not be competent for the railway company to prove the statutes or decisions of such state, as a defense to an action brought in Indiana. Plaintiff brought suit in Indiana. *Held*, that the statute, in so far as it deprived the railway company of setting up the defenses named, operated as a confiscation of property rights in violation of the Fourteenth Amendment; that as such it was unconstitutional, and that the law of the place of injury would control. *Baltimore & Ohio Ry. Co.* v. *Read* (1902), — Ind. —, 62 N. E. Rep. 488, 56 L. R. A. 468.

A vested right of action is property. COOLEY ON CONSTITUTIONAL LIMITATIONS, 6th ed., 443; *Streubil* v. *Milwaukee, etc. Ry. Co.* (1860), 12 Wis. 74. And a vested right of defense is equally protected. *Pritchard* v. *Norton* (1882), 106 U. S. 124, 27 L. ed. 104, 1 Sup. Ct. Rep. 102. The legislature may alter rules of evidence but it cannot preclude a party from setting up his rights. COOLEY ON CONSTITUTIONAL LIMITATIONS, 6th ed. 452; *Wright* v. *Cradlebaugh* (1867), 3 Nev. 341; *Little Rock, etc. Ry. Co.* v. *Payne* (1878), 33 Ark. 816, 34 Am. Rep. 55. But conditions may be imposed upon the setting up of such rights. *Lombard* v. *Antioch College* (1884), 60 Wis. 459. But such conditions must not be unreasonable. *Lassiter* v. *Lee* (1880), 68 Ala. 287. And the legislature may establish a conclusive rule in matters unessential and only jurisdictional. *In re Orloff Lake* (1887), 40 La. An. 142, 3 So. Rep. 479.

The law of the place where the injury is sustained controls. *Alexander* v. *Fennsylvania Co.* (1891), 48 Ohio St. 623, 30 N. E. 69; *Hyde* v. *Wabash, etc. Ry. Co.* (1883), 61 Ia. 441, 47 Am. R. 820; *Ala. etc. Ry. Co.* v. *Carroll* (1892), 97 Ala. 126, 18 L. R. A. 433. Statutes prescribing a penalty or giving right of action for a tort committed have no extraterritorial effect. HUTCHINSON ON CARRIERS, 2d edition, § 789 a; *Carnahan* v. *Western Union Tel. Co.* (1883), 89 Ind. 526, 46 Am. R. 175; *Hyde* v. *Wabash etc. Ry. Co., supra.* But rights acquired under a statute may be enforced in another state, if not against the law or policy of the state in which it is sought to be enforced. *Nathan* v. *Lee* (1898), 152 Ind. 232, 43 L. R. A. 820, 52 N. E. 987.

CONTRACT — PERFORMANCE — LEGAL HOLIDAY. — Defendant had agreed to purchase certain stock if tendered on January 1, 1898. January 1 was a holiday. It was provided by statute that negotiable paper falling due upon a holiday should be deemed payable on the next succeeding business day; and that holidays should be considered as Sunday so far as the transaction of business in the public offices of the state was concerned. January 2, 1898 fell upon Sunday. Plaintiff tendered the stock on January 3, 1898, but defendant refused to receive it, and an action was brought to recover damages for this breach of the contract. *Held*, that the action could not be maintained. *Page* v. *Shainwald* (1901), 169 N. Y. 246, 62 N. E. Rep. 356, 57 L. R. A. 173.

"In the present state of the statutes," said the court, "we are of opinion that upon holidays other than Sunday all transactions may be carried on as